

## **SELECTMEN'S MEETING MINUTES**

### **December 06, 2011**

Members Present: Larry Harrington, Chairman  
James J. DeVellis, Vice Chairman  
Mark Sullivan, Clerk  
Lorraine Brue  
Lynda Walsh

Others Present: Kevin Paicos, Town Manager  
Randy Scollins, Finance Director  
Hannelore Simonds, Chief Assessor  
Thomas Buckley, Chairman, Michael Laracy & Bob Hadge,  
Members of the Board of Assessors  
Roger Hill, DPW Director

The meeting was brought to order at 7:00 p.m. by Larry Harrington, Chairman of the Board of Selectmen.

Larry Harrington, Chairman, explained that he would allow time for citizens to make comments on the casino issue but cautioned that at 7:10 discussion would cease to go to the Public Hearing as scheduled. He would like to make sure that people have a chance to express their views as well as to get feedback from Board members.

**7:00 – Citizens Input** – Dick Heydecker came before the Board to discuss issues that in his opinion have not been addressed by the Town. He said he had seven questions at this time.

- 1) He asked about Executive Session minutes regarding pay schedules for “zero” increase and 3%. He said he has not seen the vote on that.
- 2) The \$450,000 Snow & Ice without a vote from the Advisory Committee.
- 3) No vote from Advisory Committee on Transfer requests to pay the Overtime accounts and how does the taxpayer get involved with this process; where can this information be found in the budget.
- 4) Concern about “after the fact” changes in park and road projects without any indication in the budget lines.
- 5) How do fees, fines, etc. offset expenses – no clarity in terms of how this happens.
- 6) Where is the taxpayer in contract negotiations, who is responsible for participating in the contract negotiations and why he cannot get the answers he is looking for.
- 7) What is the annual bond cost to the Town

A general discussion ensued. Larry Harrington, Kevin Paicos and Randy Scollins responded to these concerns. Larry Harrington explained that the process for contract negotiations has changed since the implementation of

the Strong Manager Act and that all labor contracts are negotiated in the same manner. Kevin Paicos explained that contract negotiations have been conducted in the same way for the last eight years. Randy Scollins explained how the Snow & Ice account is adjusted to meet the total expenses of the winter season.

Lynda Walsh read a prepared statement regarding the response to the casino discussions.

"I'd like to take this opportunity to publicly respond to all the phone calls and emails I've received over the last five days. First, I'd like to remind folks that Mr. Wynn is here to get a feel for our community and whether or not we would welcome a casino type resort. I believe he has gotten a feel for a part of our town in ways that I have seen for my first time. I have to state, that while I understand people's fears and their right to free speech, I am saddened to witness some of the signs and their statements. Never in my 50 years here in town have I seen negative campaigning on our town common. While standing off to the side watching and listening, I couldn't help but think...have these folks lost total faith and respect for their elected town Boards? My heart went out to all that have made this town what it is today and folks who continue to protect it. The slanderous remarks made about Mr. Kraft and the assumption that board members are in back door deals are uneducated remarks and I am trying to hold them as just that. It's times like these that we need to stay united, and my fear is that this issue will divide our town, putting neighbor against neighbor, and that is not what Foxboro, the gem of Norfolk County, has been built on.

Many of your calls and emails begin with I've lived here for however many years. I, too, am a life-long resident of Foxboro, as was my Mom. It wasn't too long ago that there was a harness race track where the new stadium stands. Back in the day, Foxboro was a destination for folks to come, enjoy a day of racing and it was a source for citizens to be employed. Several years ago, when the decision for gambling was brought up, a dedicated group of individuals researched and recommended that we do not welcome gambling to the town. I can appreciate the fears of most of you, a few weeks ago this board had a lengthy discussion during our meeting in reference to changing the zoning on Route 1 to allow gambling. I heard, loud and clear that Foxboro residents do not want a casino because of all the negatives that come along with it. However, during our discussion my vision was of a casino a lot like FoxWoods and Moheagan Sun, where the majority of the property is dedicated to gaming. From what I've heard through the media about Mr. Wynn's idea is that the gaming portion would not be more than 10% of the overall project. Does that mean that I've changed my decision about re-zoning on Route 1 to allow gambling, No...I am however, trying to keep an open mind and would like the chance for our citizens to view Mr. Wynn's plan and overall proposal. I'm asking that we as a town conduct ourselves as the proud citizens of Foxboro that we are. Please make it a point to become more educated on exactly what is being proposed, here in our town. There

will be public meetings that will be posted for you to attend, ask questions and voice your concerns.”

**7:10 – Public Hearing continued – Tax Classification Hearing** – Randy Scollins, Finance Director, Hannelore Simonds, Chief Assessor and members of the Board of Assessors were present to discuss the values of property to decide whether to maintain Level 1 Classification. Randy Scollins explained that this vote is required to set the tax rate. He said the rate has to be submitted to the State Dept. of Revenue for approval and he hopes to have that approval from the State by the end of December.

Randy Scollins submitted a Classification Hearing document outlining information and process used for making a determination on Tax Classification, keeping the rate at Level 1 or consideration of a Split Tax rate thereby moving more of the tax burden to the commercial and industrial businesses. He reviewed the Executive Summary including FY '12 Tax Levy, FY '12 Property Values, FY '12 Tax Rate, FY '12 Tax Bill, Area Community Comparisons and Shifting the Burden from Residential to Business. Randy explained that the FY '12 Tax Levy is increasing by 5.24%, noting that 2.37% of that is allowed by Proposition 2-1/2. He said that although the Town has taxed to the 2-1/2 limit each year, there have been no overrides built into that figure as in many of the surrounding communities.

A general discussion was held. Hannelore Simonds spoke about the fluctuations in the value of real estate properties noting that the commercial and industrial class decreased more in value than residential. Randy Scollins said he cannot see an increase of 5.2% for residential and zero for commercial. He pointed out that the Board had not voted for a split rate in the past seven or eight years. He said there never would be a “right” time by looking at the difference between residential and commercial.

Mark Sullivan, Clerk, read a letter from Dennis Naughton, 4 Everett Lane, voicing his concerns about the tax rate.

“Dear Members of the Board of Selectmen:

I am writing to you because I am unable to attend the December 6, 2011 meeting of the Board of Selectmen. I am asking this letter be read publicly when the issue of setting the tax rate is discussed.

Since 1978, state law has allowed selectmen to set a higher tax rate for businesses than for residential taxpayers. The law was passed so that residential tax payers could get a break. The law allows selectmen to set the business tax rate anywhere from the same as the residential rate up to 50 percent more than the residential rate. Business has been steadily expanding in Foxborough over the past decade. It is time that we residential taxpayers got the benefit anyway, but especially now, in this down economy with high levels of unemployment. Our residential taxes have been going up while the value of our property has plunged.

Our municipal expenses have certainly increased as a result of business expansion, especially along Route 1 and Chestnut Green. Wrentham, with its huge outlet mall, has recognized the need to give its residential taxpayers a break, and just voted a higher rate for businesses. North Attleboro, home of the Emerald Square mall has just done the same thing. Foxborough, with Patriot Place and other new businesses, needs to follow suit and give some relief to its residential taxpayers.

I am calling upon you members of the Board to do the right thing. It is time for you to vote a differentiated tax rate in Foxborough. It's time for some relief for us residential taxpayers.

Sincerely, Dennis Naughton"

Lorraine Brue asked how a change to this recommended rate would impact the average residential taxpayer. Randy Scollins pointed out that this shift to a 2.07% tax burden shift would mean a change of \$101.85 based on the average value of \$350,000. Hannelore Simonds pointed out that based on Randy Scollins numbers every dollar that the residential taxpayer saves the businesses would pay \$5.00. It was pointed out that this would be the same for all businesses, those on Route 1 as well as the small businesses in Town. Randy Scollins pointed out that there are approximately 5,500 residential accounts and just under 400 business accounts. Mark Sullivan pointed out that the small businesses do not have a vote on this and most have mortgages. This would shift the tax responsibility over to small businesses. Larry Harrington pointed out that businesses are not doing well in this economy as evidenced by unemployment and to shift the burden to smaller businesses could make the problem worse. Paul Johnston, Pine Acres Road, said "let's not build the Library or the Town Hall right now let's just make do", the Town should deal with what it has. Lorraine Brue said she feels that this change allows for sharing the tax burden in a fair way in the approach the Board has taken. She noted that the value of businesses has decreased and that on the residential side, there is no account taken for expenses of homes. She said when one looks at changes in values, there is a great impact to be considered when the residential owners to not have the opportunity to build expenses into taxes.

Chairman of the Board of Assessors, Thomas Buckley, commented that business could argue on both sides of this and the last thing the BOA wants to do is to negatively impact the business owners. He pointed out that the Town can try this for one year and if, after that, things change, the Town can always go back to the single rate. Randy Scollins said he fully supports the recommendation by the Board of Assessors. He has seen the increase in the tax burden falling on residential owners while businesses stay flat.

Motion by Lynda Walsh to close the Public Hearing. Seconded by Lorraine Brue. **Vote: 5-0-0**

Mark Sullivan said he hoped this would not become a deterrent to businesses coming into Town.

Motion by Lorraine Brue to approve the FY 2012 residential tax rate to a factor of 0.979330 for the Town of Foxborough. Seconded by Lynda Walsh.

A brief discussion ensued. Mark Sullivan expressed concerns about shifting the burden of taxes to commercial businesses, pointing out that the Town all ready has empty stores and other small businesses having difficulty during these slow economic times. Larry Harrington pointed out that everybody has to cut back, the Feds, the State, businesses and residents as well. Kevin Paicos said he would concur with the Board of Assessors and Randy Scollins. He said the numbers cry out to give the home owners some relief. Kevin Paicos pointed out that the Board has an opportunity in the budget coming up to try to offset what the Board had just voted. That requires a lot of hard work. He said this would provide some relief for the taxpayers. Further discussion included concerns about the decrease in residential valuation, commercial growth in Town and giving this shift in the tax burden a trial year.

**Vote: 3-2-0** Mark Sullivan and Larry Harrington opposed.

Paul Mortenson spoke to the Board relative to his request for Executive Session Minutes. He sent an appeal at the end of last week. He asked, in the interest of the sensitiveness of Executive Sessions, could, he as a citizen, be invited to attend and Executive Session for discussion of this matter. Kevin Paicos pointed out that the process is to file with the Attorney General's Office asking for a response from the Town. A response to that request would come to the Town and that determination is binding. The Board has made a decision to not let Paul Mortenson attend an Executive Session, unless the Board wants to reverse that decision. Jim DeVellis pointed out that there is a lot going on in the Town; and these Executive Session minutes are not something that Paul Mortenson has not seen before. He suggested to let him sit at the table and move forward with this issue. If there is an opportunity to sit down together, then that should happen. Mark Sullivan said he would respect the Town Counsel's decision and it was not just the Board's decision it was also a decision of the Town Counsel. Paul Mortenson said he would be very happy to be in attendance in order to discuss real property.

**Discussion on Casino** – Lorraine Brue said she also had received numerous emails and phone calls regarding the casino issue; she appreciates all the concerns expressed. She noted that a public meeting would be held at the High School to invite Mr. Wynn and Mr.Kraft to hear the concerns of the Foxborough residents so that a determinations can be made on whether the Town wants to entertain a proposal or whether to even consider that. She said giving the citizens that opportunity would help them better understand. Larry Harrington agreed with Lorraine and that he, too, was doing his best to respond to all the phone calls and emails. He commented on the great investment made by

Mr. Kraft at Patriot Place and that much has been done to make Foxborough what it is today. In discussions with Mr. Kraft, Mr. Wynn explained that the gaming portion of the resort would be only 10% of the overall complex. Larry Harrington pointed out that this would mean jobs for Foxborough residents and about \$15M in revenue for the Town. He said Mr. Kraft and Mr. Wynn are concerned about the traffic issues and crime and they are looking for feedback from the community. He also pointed out that Mr. Wynn has not presented anything to the community as of this date. It was noted that this would have to have a 2/3rds vote on a ballot question.

Mark Sullivan pointed out that five months ago the Board voted 5-0 against zoning changes. He said there is a lot more that needs to be discussed, at least to see a proposal, before making any decision but right now there is no other venue interested and there is no proposal right now. Lorraine Brue said that what she was hearing is whether or not people want to look at a proposal. She said many people are not even interested. She questioned whether or not the Board should be having this discussion. Jim DeVellis said if Mr. Wynn and Mr. Kraft are really serious in getting opinions from the Board and from the citizens they should not break up meetings into small groups but they should come before the Town with a proposal. He pointed out that the Stadium needs the Town and the Town needs the Stadium; people fighting are sure signs of disaster.

Several Foxborough residents attended the meeting to express their opposition to the idea of having a casino on Route 1. Neda Joury Penders, Helen Merigan, 304 Central Street, Steve Udden, 21 Carmine Ave., Paula Mitchell, Larry Merigan, Stephanie Crimmins and Ginny Coppola were among those who spoke. All expressed their opposition to a casino ranging from the way this has been presented to the Town by Mr. Wynn to the life quality for residents of Foxborough and how it would affect property values. Helen Merigan expressed great concern for the children; she said "this is a dangerous thing!" She said the lives of the children would be jeopardized because of the kinds of people that a casino would attract. Paula Mitchell pointed out that "no one is looking at Plainridge" in Plainville with the 250 slot machines going in there. Larry Merigan said that although the talks about a \$2M biotech facility is not a reality at this time, he feels very confident that some other business will come along and be something more suitable for the citizens of the Town. He feels that the casino invites a transient and criminal element. He is surprised that Mr. Kraft, NFL franchise owner, would be involved with the gaming industry. Mr. Merigan did acknowledge that Mr. Kraft is the owner of the land. Steve Udden said he would like to know who was asked to attend a meeting with Mr. Kraft and Mr. Wynn. Stephanie Crimmins said she has 700 signatures of people who oppose the casino as well as about 550 people on Facebook. Ginny Coppola reminded the Board that Town Moderator, Frank Spillane had said a meeting would be scheduled before the end of the month. She suggested that December 20<sup>th</sup> would be "as good a day" as possible.

A brief discussion was held regarding scheduling a date for meeting with Mr. Kraft and Mr. Wynn and the public, the purpose of the meeting and possible outcome. Kevin Paicos asked that the Board summarize exactly what they would like to have done. Lorraine Brue suggested to set up a meeting with the public at the High School with overflow space, inviting representatives from the Kraft Organization as well as Mr. Wynn and to make sure the neighboring communities are aware of such a meeting. Dates discussed for this meeting were Dec. 20, Dec. 27 or possibly on Saturday, Dec. 17<sup>th</sup>.

**7:30 – New DPW Director** – Kevin Paicos introduced Roger Hill as the new DPW Director for the Town of Foxborough. Kevin explained the process followed before a choice was made. He said Roger was the unanimous selection by the final search committee. Roger Hill has 40+ years of municipal and private experience. Kevin Paicos explained that questions had been raised about specific licenses not held by Roger Hill. He said that the nature of a director's responsibilities is that he does not actually run the water treatment plant but is expected to employ people to do that. He also addressed questions about "commuting" that Roger Hill would not be "commuting" to Florida and would be available 24/7. Kevin Paicos pointed out that Mr. Hill has taken extraordinary steps to become familiar with the Town and the Department Heads with whom he will be working and has spent time viewing BOS meetings on cable.

The issue of salary for the DPW director was discussed. Kevin Paicos said that when he started looking at the positions of DPW Director and an HP Director he hired a professional consultant to research salaries at this level. He said the result was a finding of \$120,000 per year was based on other similar communities for a senior person. Jim DeVellis noted that when names were submitted from the second search group, he contacted them and established that no one on that group worked under Kevin Paicos' direction. He said those are the checks and balances that are in place. He thanked Kevin Paicos for the process and asked if the same process would be followed in the selection of an HR person. Jim noted that bringing together the W&S and Highway Dept. is a sensitive place to be as this is the first reorganization of departments.

Mark Sullivan said that there would be one department head for the DPW with a salary of \$120,000 and asked what the numbers would be for the superintendent for Highway and for W&S. Kevin Paicos said that has not been decided at this time and whether or not the Town would have a #2 full time W&S with appropriate licenses. Mark Sullivan noted that the Town can not afford another person in a management position. Kevin Paicos said the #2 person would be someone with an engineer's license. He said he did not want to impose the structure of the Dept. on the new W&S director; that person would work directly under the DPW Director. It was suggested to run the department for one year, see how it works out and if it doesn't work out, then changes would have to be made. Mark Sullivan asked if Kevin would be looking at two more employees. Kevin Paicos said there is only one vacancy at this time and that job

is being reviewed. When questioned about what happens to Bob Swanson, Kevin Paicos said that was not a topic of discussion at this point. Larry Harrington pointed out that when the Board agreed to the DPW Director position there would also be a Town Engineer who would have the resources for the road program and there would still be only two people working with two people. He said he does not want to have a situation where the Board is hearing that more staff is needed. The discussion continued. Bill Hill pointed out that he is not prepared to give any decisions right now. He cannot make any decisions about staff at this time.

Motion by Jim DeVellis to approve \$120,000 salary for the DPW Director. Seconded by Lynda Walsh.

A brief discussion was held. Jim DeVellis pointed out that this is a start and that it might be good to have dialog with W&S; he said there is not time to work out these issues right now. Mark Sullivan mentioned that if there was more time research could be done to find out what the savings might be. **Vote: 3-2-0** Larry Harrington and Mark Sullivan opposed.

**ACTION:**

**Minutes** - The Minutes of the Board of Selectmen Meetings of November 8 and 15, 2011 were reviewed.

Motion by Lynda Walsh to approve the Minutes of November 8, 2011 as amended. Seconded by Jim DeVellis. **Vote: 5-0-0**

Motion by Lynda Walsh to approve the Minutes of November 15, 2011 as amended. Seconded by Jim DeVellis. **Vote: 5-0-0**

**Requests for 11:00 a.m. Sunday Openings** – Received from the 99 Restaurant #30029 a request for extended hours for the 2011 and 2012 calendar years.

Motion by Lynda Walsh to approve the request for extended hours to 11:00 a.m. during which alcoholic beverages could be served with food as submitted by O'Charley's Inc. on behalf of the 99 Restaurant. Seconded by Lorraine Brue. **Vote: 4-1-0** Mark Sullivan opposed.

Received from Lake View Pavilion a request for extended hours of Saturday and Sunday liquor license from 12:00 noon to 11:00 a.m. to allow the serving of alcoholic beverages in conjunction with food service on occasions that a function would begin earlier than 12:00 noon.

Motion by Lynda Walsh to approve the request for extended hours to 11:00 a.m. through 2012 on Sundays. Seconded by Lorraine Brue.

**Vote: 4-0-1** Mark Sullivan abstained.



Received from Skipjack's a request for extended hours to 11:00 a.m. to allow the serving of alcoholic beverages in conjunction with food service on Sunday game days that have a 1:00 p.m. starting time for the remainder of the 2011 season as well as for 2012.

Motion by Lorraine Brue to approve the request for extended hours to 11:00 on Sunday game days as requested by Skipjack's. Seconded by Lynda Walsh. **Vote: 5-0-0**

**Resignation – Cultural Council** – Received from Amalia Canna, 14 Morningside Lane notice of her resignation from the Foxborough Cultural Council effective Nov. 25, 2011.

Motion by Lynda Walsh to accept the resignation of Amalia Canna from the Foxborough Cultural Council effective Nov. 25, 2011. Seconded by Mark Sullivan. **Vote: 5-0-0**

**One Day All Alcoholic Liquor License Application** – Received from First and Goal a request for a One Day All Alcohol Liquor License Application for January 1, 2012 and any home playoff games.

Motion by Lynda Walsh to approve the request for a One Day All Alcohol Liquor License as submitted by First and Goal. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Interim Order made Permanent** – Received from Sue Thibedeau, Animal Control Officer, a request to make permanent an interim order issued for the Golden Retriever, Moose, owned by Paul and Nora Tooher, 76 Lakeside Road. A brief discussion was held.

Motion by Mark Sullivan to make the Interim Order permanent as recommended by Sue Thibedeau, Animal Control Officer, in her letter dated 11.29/11. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Hackie License Application** – Received from Wayne Robert Demers, Foxborough, an application for a Hackie's License to drive for Sharon Taxi.

Motion by Lynda Walsh to approve the application for a two year Hackie's License as submitted by Wayne Robert Demers. Seconded by Lorraine Brue. **Vote: 5-0-0**

Received from David Gangemi, 7 Woodland Rd., Norton, MA an application for a Hackie's License for a two year renewal.

Motion by Lynda Walsh to approve the application for renewal of a two year Hackie's License as submitted by David Gangemi. Seconded by Lorraine Brue. **Vote: 5-0-0**

**8:05 – Finance Director Resignation** – Kevin Paicos announced the resignation of Randy Scollins, Finance Director. He said the Town could not get along for a long time without a CFO. He has spoken to Randy about staying on in a temporary basis. He has also talked with Todd Hassett, former Foxborough Finance Director, about coming on in a temporary arrangement until he could find someone else or get through the recruitment process. He took a few moments to explain the process for a pay plan. If the Board approves the pay plan he can then move forward; he has to have a decision of that before he can advertise for the position.

A general discussion was held. Larry Harrington suggested that the Advisory Committee be included in discussions on the pay plan. Mark Sullivan said an RFP should go out right away. Lorraine Brue asked how this would involve the Personnel Wage Board. The salary range was discussed; that being \$102,460 to \$127,961. Kevin Paicos pointed out that this would be a step six entrance level. He said the ad would go out to The Beacon, the MGFDA as well as put on the web site. The interview process was discussed. Mark Sullivan expressed the desire to be involved in the interview process for the first applicants.

Motion by Jim DeVellis to authorize Kevin Paicos to advertise for the CFO position with a salary of \$100,000 to \$130,000 for a salary range. Seconded by Lynda Walsh.

Motion by Jim DeVellis to modify the motion to adjust the suggested range as presented by the Town Manager, \$102,460 to \$127,961 subject to review by the Personnel Wage Board. Seconded by Lynda Walsh. **Vote: 5-0-0**

A brief discussion was held on the RFP for Town Counsel Services. Lorraine Brue reviewed changes made as discussed with Kevin Paicos. Lorraine replaced one paragraph with other wording pertaining to Gillette Stadium and a change in the section RFP Process and Schedule. In the Scope of Services, Lorraine added "Experience in negotiating and dealing with large commercial entities/development and advertising is a requirement." One or two other small changes in wording were made.

Motion by Mark Sullivan to adjourn. Seconded by Lorraine Brue.

**Vote: 5-0-0** Meeting adjourned at 11:00 p.m.

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Mark Sullivan, Clerk